

MICHAEL WALTON
P.O. Box 751
San Anselmo, CA 94979
(415) 456-7920
Attorney for Michael and Solina Walton

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California)
not-for-profit religious)
corporation,)

CASE NO. 157 680

Plaintiff,)

vs.)

DEFENDANTS MICHAEL AND SOLINA
WALTON'S OPPOSITION TO PLAINTIFF'S
MOTION FOR AN ORDER COMPELLING
COMPLIANCE WITH COURT ORDER

GERALD ARMSTRONG; MICHAEL)
WALTON; THE GERALD ARMSTRONG)
CORPORATION, a California for)
profit corporation; DOES 1)
through 100, inclusive,)

Defendants.)

Date: April 6, 1995
Time: 11:00 A.M.
Dept: Law Office of William Benz
Trial: May 18, 1995
Discovery Cut-off: March 16, 1995

1 Defendants, Michael and Solina Walton (hereinafter the
2 "WALTONS") object to and oppose plaintiff's (hereinafter
3 "Scientology") Motion For An Order Compelling Compliance With Court
4 Order.

5 I.

6 **SCIENTOLOGY MISSTATES THE COURT'S ORDER IN RELIANCE UPON MOTION**

7 The original trial date in this matter was September 24, 1994.
8 Scientology requested a continuance which was granted. Subsequent
9 to the September 24, 1994 date, Scientology initiated discovery.

1 Defendants, Michael and Solina Walton objected to any such
2 discovery on the grounds that discovery had been terminated by way
3 of the 30 day rule which attaches to the ORIGINAL trial date.
4 Scientology then petitioned the court for permission to complete
5 discovery. On December 16, 1994, the Honorable Gary Thomas ruled
6 that, **"Plaintiff's motion for leave to complete discovery is**
7 **granted. The new discovery cut-off date March 16, 1995"**. See
8 Exhibits C and E to the Declaration of Laurie J. Bartilson in
9 support of the instant motion. Both exhibits contain copies of the
10 proposed order prepared by plaintiff's attorney and submitted to
11 Michael Walton for signature. While it is clear that Judge Thomas
12 reopened discovery through March 16, 1995, he did not speak to the
13 issue of the appropriateness of any particular discovery (which he
14 had already ordered to be the responsibility of the discovery
15 referee). **There was no ruling with respect any item of discovery.**

16 Scientology's argument is not substantiated by Judge Thomas'
17 ruling. Scientology's subsequent discovery indicates its knowledge
18 that Judge Thomas was not reopening discovery for the two specific
19 items that plaintiff referenced in its moving papers. Plaintiff has
20 since served Michael Walton with Interrogatories and Requests For
21 Admission, items not referenced in their moving papers to Judge
22 Thomas. **With the general order to reopen discovery comes the**
23 **necessary requisite that any such discovery is proper in both form**
24 **and content.** In its order that Scientology be allowed to complete
25 discovery, the court did not place any restriction on discovery **nor**
26 **did it rule on any specific discovery request.** Plaintiff, until

1 March 16, 1995, could have utilized any authorized discovery device
2 regarding any matter properly discoverable which complied with the
3 rules of civil procedure.

4 Finally, Scientology argues that it "brought a motion to
5 compel inspection of the property" (page 4, line 19 of
6 Scientology's Points and Authorities). Scientology blatantly
7 misrepresents the character of the motion to this referee. See
8 Scientology's "Exhibit A" (Motion to Complete Discovery) which is
9 an altogether different thing than a motion to compel. Scientology
10 never brought a motion to compel and never obtained a ruling on any
11 specific discovery request.

12 II.

13 A MOTION TO COMPEL IS THE PROCEDURE TO ENFORCE CCP 2031 DEMAND

14 Scientology's Demand For Inspection of Real Property was
15 brought pursuant to CCP 2031. (See Exhibit D to Declaration of
16 Laurie J. Bartilson in support of the instant motion. A motion to
17 compel is the procedure to enforce compliance with a CCP Section
18 2031 demand. (CCP 2031(1)). However, the motion must be served
19 within 45 days after the service of the response in question,
20 extended by five days if served by mail (CCP 1013(a)). If the
21 motion is not timely served, the party waives the right to compel
22 any further response to the CCP 2031 demand. The 45 day deadline
23 runs from the date the response is served, not from the date
24 originally set for production or inspection. (CCP 2031 (1), Standon
25 Co., Inc. v Sup. Ct.(Kim) (1990), 225 CA3d 898, 903, 275 CR 833,
26 835.

1 ruling that the discovery cut-off was on March 16, 1995. This
2 attempt at discovery is doubly timed barred. There is no more
3 discovery in this action.

4 IV.

5 **OBJECTIONS TO INSPECTION OF WALTONS' RESIDENCE**

6 Even if Scientology's attempt at this discovery were not time
7 barred, defendants' objections to the discovery are valid and
8 would, on their own, prevent such discovery.

9 On two prior occasions, the Waltons timely objected to an
10 inspection of their home. The basis for these objections was, inter
11 alia, that the inspection was irrelevant, burdensome and
12 oppressive, violative of right to privacy, harassing and not
13 calculated to lead to the discovery of admissible evidence.

14 Scientology seeks to recover money damages. Scientology has
15 not yet proven that it is entitled to money damages from defendants
16 SOLINA and MICHAEL WALTON, yet it attempts at every opportunity to
17 conduct asset checks of the defendants. To date, the discovery
18 referee has disallowed Scientology's attempts to discover the value
19 of the assets of these defendants. The current value of the Walton
20 residence has no relevance to this lawsuit nor does it have any
21 relevance to the value of the property in the summer of 1990 which
22 is when Armstrong and Walton purchased the property and when
23 Armstrong subsequently transferred his interest to Walton.

24 Scientology has no judgment against Mr. or Ms. Walton nor any
25 legitimate claim to know the value of any of Waltons' assets. **Such**
26 **has been the consistent ruling from the discovery referee.** Even in

1 the unlikely event that Scientology should obtain a money judgment
2 against the Waltons at some time in the future, the then value of
3 the family home would only become relevant if the Waltons were
4 unable to satisfy such a judgment by other means.

5 The request by Scientology to "inspect" the Walton residence
6 is a simple act of harassment and part of Scientology's vicious
7 litigation technique. In the language of the cult of Scientology it
8 is called "Fair Game". One of the directions of "Fair Game" is to
9 "sue". One of Scientology's litigation techniques it calls, "Dev-
10 T", short for "developed traffic" which means "unusual or
11 unnecessary traffic" or, as a verb, to generate such unusual and
12 unnecessary traffic; or to cause someone to do unnecessary work.

13 V. CONCLUSION

14 Scientology has blatantly misstated the facts and ignored the
15 law in bringing this motion. It has brought this motion wrongfully
16 and in bad faith. Defendants have fully complied with Judge Thomas'
17 ruling of December 16, 1994.

18 Just as Scientology recently argued that Mr. Armstrong should
19 be sanctioned for attempting irrelevant discovery in a non code
20 approved manner, so should Scientology be sanctioned for bringing
21 this motion which was not founded on the order of Judge Thomas, not
22 relevant, not timely and not the proper vehicle for enforcing
23 compliance with a CCP 2031 demand; i.e., attempting irrelevant
24 discovery in a non code approved manner.

25 Defendants request that Scientology's motion be denied and
26 pursuant to CCP 2023(b)((1) and 2030(1), Scientology and its

1 attorneys be ordered to pay defendants fees and costs in the amount
2 of \$900 in attorney's fees and any and all fees related to this
3 motion charged by the referee. In addition, defendants request that
4 pursuant to CCP 128.5, Scientology and its attorneys be further
5 sanctioned in the amount of \$1500 for their blatant
6 misrepresentation of facts to this referee regarding the contents
7 of Judge Thomas' order relied upon by Scientology in bringing this
8 motion.

9 Dated: March 30, 1995

10 _____
11 Michael Walton
12 Attorney for
13 Michael and Solina Walton

PROOF OF SERVICE BY HAND DELIVERY
STATE OF CALIFORNIA, COUNTY OF MARIN

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 700 Larkspur Landing Circle, Suite 120, Larkspur CA 94939.

On March 31, 1995, I served the within DEFENDANTS MICHAEL AND SOLINA WALTON'S OPPOSITION TO PLAINTIFF'S MOTION FOR AN ORDER COMPELLING COMPLIANCE WITH COURT ORDER and DECLARATION OF MICHAEL WALTON in support of said opposition on the interested parties by hand delivery as follows:

Laurie J. Bartilson
Andrew Wilson
Wilson, Ryan & Campilongo
115 Sansome, 4th Floor
San Francisco, CA 94104

Gerald Armstrong
715 Sir Francis Drake
San Anselmo, CA 94960

Mr. William Benz
900 Larkspur Landing Circle, #185
Larkspur, CA 94939

Executed on March 31, 1995 at San Anselmo, California.

I declare under penalty of perjury that the foregoing is true and correct.
